

## **REMARKS**

### **A. Status of the Claims**

Claims 9-21 were pending at the time of the Office Action. Claims 9 and 20 have been canceled without prejudice or disclaimer. Applicant reserves the right to pursue the subject matter of the canceled claims in a continuing application. Claims 10 and 15-19 have been amended to depend from claim 21. Claims 10-19 and 21 are, therefore, currently pending. Claim 21 has been indicated to be allowable.

Applicant notes that although claims 10-19 depend, either directly or indirectly, from a numerically following claim (*i.e.*, claim 21), their dependency is clear. The MPEP states that “in situations where a claim refers to a numerically following claim and the dependency is clear, both as presented and as it will be renumbered at issue, all claims should be examined on the merits and no objection as to form need be made. In such cases, the examiner will renumber the claims into proper order at the time the application is allowed.” MPEP § 608.01(n)(F).

### **B. Oath/Declaration**

The Action maintains that a new oath or declaration is required because the declaration as filed in the application is not in the English language. Although Applicant believes that the declaration in accordance with PCT Rule 4.17(iv) satisfies the requirements set forth 37 C.F.R. § 1.69(b) (*see* Applicants’ Response filed (August 15, 2006)), Applicant is providing herewith a new declaration in the English language in order to advance the prosecution of this application.

### **C. Claim Objections**

Claim 10 is objected to under 37 C.F.R. § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant traverses this objection.

An antioxidant is a compound that inhibits oxidation by binding free oxygen radicals. As recited in claim 21, antioxidant A is NADH or NADPH. An “oxygen-sequestering substance” is a substance, such as an oil, that reduces, or largely prevents, any contact between antioxidant A and oxygen (Specification, p. 6, ln. 1-22). As described in the specification, an “oxygen-sequestering substance” protects antioxidant A by largely *preventing the contact* of antioxidant A with oxygen, whereas another antioxidant protects antioxidant A by *reducing the oxygen* before the oxygen can react with antioxidant A (p. 6, ln. 23-32). Thus, claim 10 is a proper dependent claim because it references claim 21 and specifies a further limitation, namely that the composition of claim 21 further comprise an oxygen-sequestering substance, which is not the same substance as antioxidant A or antioxidant B.

**D. The Rejections Under 35 U.S.C. §§ 102 and 103 Are Overcome**

The Action rejects claims 9, 15-16, and 18 under 35 U.S.C. § 102(b) as being anticipated by any of Barnabas *et al.* (US 6,133,227), Shah *et al.* (US 5,777,190), Wagner *et al.* (US 6,124,242), or Hitz *et al.* (US 5,760,206). The Action also rejects claims 10-14 and 17 under 35 U.S.C. § 103(a) as being obvious over any one of Barnabas *et al.*, Shah *et al.*, Wagner *et al.*, or Hitz *et al.* in view of any one of EP 1 161 884 A1, US 5,332,727, or US 5,952,312.

The Action indicates that claim 21 is allowable. All of the current claims include the limitations of claim 21, thus rendering moot the above-mentioned rejections under 35 U.S.C. § 102(b) and § 103(a). Applicant, therefore, requests the withdrawal of these rejections.

**E. Conclusion**

Applicant believes this to be a complete reply to the Office Action dated December 1, 2006, and respectfully requests favorable consideration of the claims in view of the amendments and statements contained herein.

The Examiner is invited to contact the undersigned attorney with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



Travis M. Wohlers  
Reg. No. 57,423  
Attorney for Applicant

(Customer No. 32425)  
FULBRIGHT & JAWORSKI L.L.P.  
600 Congress Avenue, Suite 2400  
Austin, Texas 78701  
512.536.5654 (voice)  
512.536.4598 (fax)

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